BRAVERMAN KASKEY

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May 9, 2011

Via E-mail and First Class Mail

Patrick K. O'Neill, Esq.
Divisional Deputy City Solicitor, Environmental Law
City of Philadelphia Law Dept.
One Parkway Bldg. 16th Floor
1515 Arch Street
Philadelphia, PA 19102

RE:

Arsenal Business Center -- Notices of Violation for

Building 51/52 (V-02869, V-02865); Building 143 (V-02868, V-02864)

Dear Mr. O'Neill:

This Firm is counsel to Arsenal Associates, L.P. ("Arsenal"), Hankin Management Company ("HMC"), Arsenal Condominium Association and New Huntingdon Construction Company (collectively referred to herein as the "Arsenal Parties"). I am writing in response to the referenced four (4) Notices of Violation issued pursuant to Title 6 of the Philadelphia Code and received by our clients within the past few weeks, copies of which are attached hereto as Exhibit "A.". These Notices of Violation relate to Buildings 51/52 and 143.

Building 51/52

Philadelphia Air Management Services ("AMS") has issued the following denial of access Notices of Violation on Building 51/52:

- V-02865, against Hankin Management Company
- V-02869, against New Huntingdon Construction Company

Both violation notices state the following: "Denial of Access: on 3/29/11 AMS inspectors were denied complete access to building 51/52 in violation of Philadelphia Code §6-501(1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection."

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For the reasons set forth below, the Arsenal Parties deny these alleged violations. On March 29, 2011, AMS inspector, Andrew Jones, arrived at the Arsenal Business Center, Building 1 at approximately 9:30 a.m. Shortly before his arrival, AMS informed Arsenal Associates that an AMS inspector was coming to the Arsenal to inspect Building 44 in connection with Arsenal's application for a demolition permit for Building 44. Arsenal Associates' representative, Mr. John Swanson, met Mr. Jones and asked him what was on the agenda for the day. Mr. Jones stated that he was at the Arsenal to inspect Building 44 as well as Buildings 51 and 52. Mr. Swanson responded that he was not aware that Buildings 51-52 were on the agenda for that day. Mr. Jones then responded quickly that perhaps Building 44 was not on the agenda as well and he should leave. Mr. Swanson stated that that was not what he said. Mr. Jones then left briefly, made a phone call, and returned five minutes later stating that the inspection was to take place in Building 44 and nowhere else. At no time did Mr. Swanson, nor anyone else, deny Mr. Jones access to Building 51-52. In fact, it was Mr. Jones that declined to inspect Building 51-52.

As further stated in my letter of April 19, 2011, at no time have the Arsenal Parties denied AMS access to inspect Building 51-52 and strict proof thereof is demanded. See Letter dated April 19, 2011 from M. Walker, Esquire to D. Yuen, Esquire, a copy of which is attached hereto as Exhibit "B" and which is incorporated by reference herein.

Building 143

AMS has issued the following denial of access Notices of Violation on Building 143:

- V-02864, against Hankin Management Company
- V-02868, against New Huntingdon Construction Company

Both violation notices state the following: "Denial of Access: on 3/29/11 AMS inspectors were denied complete access to building 143 in violation of Philadelphia Code §6-501(1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection."

Once again, the Arsenal Parties deny the foregoing alleged violations and strict proof thereof is demanded. It is specifically denied that AMS requested access to or attempted to inspect Building 143 on March 29, 2011. As stated hereinabove, AMS requested to inspect and did inspect Building 44 only on March 29, 2011. More importantly, AMS did not request access nor attempt to inspect Building 143 on March 29, 2011. AMS had full and unhindered access and did indeed inspect Building 143 on January 6, 2011. Indeed, on January 6, 2011, Ms. Brooke Weese and Mr. John Swanson accompanied AMS inspectors, Andrew Jones, Ed Skirkie, Jeff Forester, Rich Annunziato and Hank Biedrzycki during their inspection of Building 143, among other buildings. During that inspection, Mr. Biedrzycki asked Ms. Weese if Building 143



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was a pet crematorium; Mr. Jones climbed up the ladder in Building 143 and came back down; and Mr. Annunziato kicked some of the pipes along the walls in Building 143. The group of AMS inspectors then exited Building 143.

Demand is hereby made that AMS produce all documents and information upon which the above-referenced notices of violation are based.

The Arsenal Parties continue to deny all material allegations of wrongdoing and any and all liability for the alleged violations. Neither this response nor anything contained herein is intended to be nor shall be construed to be an admission of liability on the part of the Arsenal Parties. All information is provided herein to the best of our knowledge, understanding and belief.

Sincerely,

Michelle S. Walker

Enclosures

cc: Dennis Yuen, Assistant City Solicitor

Donzetta Thomas, Senior Assistant Regional Counsel, EPA

Christine Convery, EPA
David L. Braverman, Esquire

EXHIBIT A

V-ULX104

NOTICE OF VIOLATION - MAJOR

PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH

AIR MANAGEMENT SERVICES ASBESTOS CONTROL UNIT

SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2^{NO} FLOOR PHILADELPHIA. PA 19104-4543

Inspector Name (Print):

Andrew Jones

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELCH. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION, COMPLETE THE ITEMS LISTED ON THE REVERSE SIDE AND RETURN THE NOTICE WITHIN 5 DAYS TO THE ADJOINING ADDRESS. FAILURE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU WILL BE CHARGED THE COST INCURRED PLUS A 20% ADMINISTRATION PER THIS VIOLATION MAY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE BOARD OF LICENSE AND INSPECTION REVIEW, NUNICIPAL SERVICES BUILDING, CONCOURSE LEVEL, 1401 JOHN F. KENNEDY BLUDD., PHILA., PA 19102-1687 WITHIN 30 DAYS OF THIS MOTICE.

PHILADELPHIA, PA 19104-4543			, PHILA., PA	BUILDING, CONCOURSE 19102-1687 WITHIN 30	DAYS OF THIS NOTICE.	
Name of Violator	Job Name			Date Issued		
Hankin Management Company		Arsenal Business Center Building 143			3/29/11	
Address of Violator		Job Location			Date of Violation	
P.O. Box 26767		2275 Bridge St.			3/29/11	
City, State, Zip	***************************************	Person Contacted & Title		Project Number		
Elkins Park, PA 19027		Mark Hankin				
Building Owner Demo Contractor	Abatement Co	ntractor API Othe	er 📗	Substantive X N	Ion Substantive	
VIOLATION(S) DIRECLIANT TO TITL	E C LICALTIL C	ODE OF THE DUMANE	L DI II A CC	DE CDECIFICAT	LLV CHAPTER & COO	
VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600						
SECTION II. LICENSES		VI. MAJOR PROJECTS (CONT.)		100 ACC 10 10 10 10 10 10 10 10 10 10 10 10 10	OR PROJECTS (CONT.)	
A. unlicensed asbestos contractor		ative pressure on 24 hours	L.	e.(.25) bag used or	200 00 100 100 2 0 00 00 00 00 00 00 00 00 00 00 00 00 0	
8.3.b. unlicensed asbestos workers	based .	ire to maintain neg, pressure diff.		ACCEPTAGE OF THE PARTY OF THE P	POSAL PROCEDURES	
SECTION III. PERMITS & NOTIFICATIONS	20.e. failt	ire to stop abatement upon neg. a	air loss [a. failure to thorou	ighly wet ACM for disposal and	
A.1. failure to obtain permit	(1) inlets	🔲 (2) decon seal 🔲 (3) air mor	nitoring	place in 6 mil bags		
A.2.a. failure to provide required information	20.J. fallu	re to maintain negative air system	s in [b. failure to place of	contaminated materials or	
SECTION IV. CERTIFICATION		ce with EPA560/5-85-024, Append		clothing in 6 mil ba	-	
C.1. failure to provide valid API certification	l. failure t	o meet requirements while exhau	usting	c. fallure to seal, d	ouble bag, and transport to	
SECTION VI. MAJOR PROJECT STANDARDS	negative	alr indoors	_	approved landfill		
A. failure to obtain project inspector	VI.C.1. AS	BESTOS PROJECT PROCEDURES	[d. failure to place :	sharp objects in fiber drum	
A.1. failure of API to notify department	b. fallure	to don proper personal equipmer	nt before	VI.C.8. WORK ARE	A CLEANUP PROCEDURES	
VI.B. WORK AREA PREPARATION	entering			a. failure to wet wi	pe/HEPA vacuum plastic	
2. failure to post occupant notification	c. fallure	to provide sufficient equipment a	nd [f. failure to leave c	ritical barriers in place until	
3. failure to post caution signs (OSHA)	clothing			airborne asbestos	levels meet re-occupancy	
4. failure to construct isolation barrier	d.(3.) faile	ire to maintain entry and exit log		standard set forth	In VI D.5 of the ACR	
5. isolation barrier requirements not met:	d.(4.) falls	d.(4.) failure of all individuals, before entering the		· VI.D. AIR MONITO	RING	
a. framing b. plywood c. plastic	work area	, to be familiar with all posted re	gs,	1. failure to collect	required samples by API	
7.a. failure to pre-clean, remove movable objects	personal	protection requirements	Ī	3. failure to use inc	dependent certified lab or to	
7.b. failure to pre-clean, seal fixed objects	d.(5.) faile	re to don proper equipment & cl	othing	have results readily	y available	
7.c. failure to pre-clean, seal all other surfaces	VI.C.2. GE	NERAL REMOVAL PROCEDURES		failure to meet foll	owing air sampling regulations:	
8. plastic isolation (critical barriers)	a. failure	to properly wet w/amended wate	er [4.a., 2.b. number o	of pre-test samples	
11. failure to maintain emergency exits	b. failure	b. failure to lower material to floor (>15 ft.)		4.a., 2.c. pre-test s	amples/routine conditions	
12. failure to lock entrances (except emergency)		to sponge or wipe surfaces clean	Ī	4.a., 2.d. project sa	mple/locations	
13. fallure to seal floor drains (2 layers)		to decon. equipment before remo	oval " [mples/24 hours posted	
14. fallure to shut down elevators		o retrieve waste water	ř	4.b., 2.f. response		
15. fallure to turn off HVAC systems		NTAINMENT BAG TECHNIQUE	ř		sample after visual	
16. failure to meet electrical requirements (GFI)	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	o properly use containment bag,	sinele	Inspection	- · · · · · · · · · · · · · · · · · · ·	
18. failure to overlap plastic 12" floor, walls		s and pipe only	ſ		sampling procedure	
19.a. failure to provide 3 stage worker decon unit		to have two persons per bag	L	VI.E. PROJECT COM	V5 11-11-11	
19.b. failure to line unit 2 layers plastic		re to remove occupants or have t	barrier [ubmit proof of final project cost	
19.c. failure to frame, sheath decon (public access		re to have single layer plastic all c	<u>_</u>	-	final visual inspection	
19.e.(.7) failure to have lockable shuttered door		re to have single layer plastic on I			eport within 10 days	
19.e. worker clean room regulations not met:	-	re to smoke test bags		SECTION X INSPEC		
(.1) (.2) (.3) (.4) (.5) (.6)	<u></u>	ure to lift off ACM while wet	r	- 1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (estos investigator on job site	
19.f. worker shower room regulations not met:		ure to collapse bag w/HEPA vacu	um L	PA ACT 1990 - 194	Annual An	
		ure to 6 mil bag over containmen			upervisor certification	
(.1) (.2) (.3) (.4) 19.g. equipment room regulations not met:		ure to clean all work surfaces	., 50B	T USGCS(03 MOLKELYS)	akertisoi eeriinearion	
(.1) (.2) (.3) (.4) (.a) (.ii)	<u> </u>	ure to dispose in accordance w/V	/I.C.7 [PHILA. HEALTH CO	DE 6-604-9(a)	
Other Violations and/ or Instructions:	,					
Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 143 in violation of Philadelphia Code §						
6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable						
times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection.						

Inspector Signature:

V-02868

NOTICE OF VIOLATION - MAJOR

MANAGEMENT SERVICES
AIR MANAGEMENT SERVICES

ASBESTOS CONTROL UNIT

SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2^{NO} FLOOR
PHILADELPHIA PA 19104-4543

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELOW. TAKE PROMIT ACTION TO CORRECT THIS VIOLATION, COMPLETE THE ITEMS LISTED ON THE REVERSE BIDE AND RETURN THE NOTICE WITHIN 5 DAYS TO THE AUXOINING ADDRESS. PAILLINE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU WILL BE CHARGED THE COST INCURRED PLUS A 201 ADMINISTRATION FEE. THIS VIOLATION AND RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE DOARD OF LICENSE AND INSPECTION REVIEW, NUNICIPAL SERVICES BUILDING, CONCOURSE LEVEL, 1401 JOHN F. KENNEDY BLUYD., PHILA., PA 19102-1687 WITHIN 30 DAYS OF THIS NOTICE.

Name of Violator New Huntingdon Construction Company, Inc. Address of Violator P.O. Box 11283 City, State, Zip Person Contacted & Title Person Contacted & Title Project Number Elkins Park, PA 19027 Building Owner Demo Contractor Abatement Contractor API Other Substantive Project Number Building Owner Demo Contractor Abatement Contractor API Other Substantive Non Substantive VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600 SECTION IL MICKERS A. uniformed abseltor sontrator B. Juliant to Lotting promise contractor 30. A negative pressure on 24 abour A. La fullure to debta promise 30. A negative pressure on 24 abour A. La fullure to provide required statement of the contractor 30. A negative pressure on 24 abour A. La fullure to provide required statement of the contractor 30. A negative pressure on 24 abour A. La fullure to provide required statement of the contractor 30. A negative pressure on 24 abour A. La fullure to provide required statement of the contractor 30. A negative pressure on 24 abour A. La fullure to provide required API certification 30. A fullure to the provide statement of the contractor 30. A negative pressure on 24 abour 40. A fullure to provide required API certification 30. A fullure to the provide statement of the contract of the cont	PHILADELPHIA, PA 19104-4543			A., PA 19102-1687 WITHIN 30	DAYS OF THIS HOTICE.	
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Building Owner Demo Contractor Abatement Contractor API Other Substantive Non Substantive			Person Contacted & Title		Project Number	
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14. failure to shut down elevators f. failure to retrieve waste water 4.b., 2.f. response action adequate 15. failure to turn off HVAC systems VI.C.3. CONTAINMENT BAG TECHNIQUE 4.c., 2.b. clearance sample after visual inspection 16. failure to meet electrical requirements (GFI) a. failure to properly use containment bag, single use elbows and pipe only 4.c., 2.d. clearance sampling procedure VI.E. PROJECT COMPLETION 19.a. failure to provide 3 stage worker decon unit 19.b. failure to provide 3 stage worker decon unit 19.c. failure to ine unit 2 layers plastic c.(.3) failure to have two persons per bag VI.E. PROJECT COMPLETION 19.c. failure to frame, sheath decon (public access) c.(.4) failure to have single layer plastic all openings 4. failure to submit proof of final project cost 19.c. failure to have lockable shuttared door c.(.5) failure to have single layer plastic on floor (5') report and/or lab report within 10 days 19.c. worker clean room regulations not met: e.(.6) failure to samoke test bags SECTION X INSPECTIONS & REPORTS failure to have asbestos investigator on job site 19.f. worker shower room regulations not met: e.(.16) failure to collapse bag w/HEPA vacuum PA ACT 1990 - 194/SECTION 9.(a)(2) (.1) (.2) (.3) (.4) (.a) (.a	[<u>L</u>]	<u></u>				
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19.f. worker shower room regulations not met: c.(.16) failure to collapse bag w/HEPA vacuum	(3) (3) (4) (5) (6)	e.(.13) fa	ilure to lift off ACM while wet	failure to have as	bestos investigator on job site	
19.g. equipment room regulations not met: (.3) (.2) (.3) (.4) (.4) (.1i) e.(.24) failure to clean all work surfaces (.3) (.2) (.3) (.4) (.a) (.ii) e.(.24) failure to dispose in accordance w/VI.C.7 PHILA. HEALTH CODE 6-604-9(a) Other Violations and/ or instructions:		e.(.16) fa	liure to collapse bag w/HEPA vacuum	PA ACT 1990 - 19	14/SECTION 9.(a)(2)	
19.g. equipment room regulations not met:	(1) [(2) [(3) [(4)	e.(.20) fa	ilure to 6 mil bag over containment bag	Asbestos worker	/supervisor certification	
Other Violations and/ or instructions: Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 143 in violation of Philadelphia Code 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection. Inspector Name (Print): Inspector Signature:		e.(.21) fa	llure to clean all work surfaces			
Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 143 in violation of Philadelphia Code 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection. Inspector Name (Print): Inspector Signature:	(.1) (.2) (.3) (.4) (.a) (.11)	e.(.24) fa	Nure to dispose in accordance w/VI.C.7	PHILA. HEALTH	CODE 6-604-9(a)	
6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection. Inspector Name (Print): Inspector Signature:	Other Violations and/ or Instructions:					
6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection. Inspector Name (Print): Inspector Signature:						
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Inspector Name (Print): Inspector Signature:	6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable					
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Andrew Jones			Inspector Signature	a:	2.	
	Andrew Jones					

V-02865

NOTICE OF VIOLATION - MAJOR

PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH AIR MANAGEMENT SERVICES

ASBESTOS CONTROL UNIT

SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2^{NO} FLOOR

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELOW. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION, COMPLETE THE ITEMS LISTED ON THE REVERSE SIDE AND RESTURN THE NOTICE WITHIN 5 DAYS TO THE ADJOINING ADDRESS. PAILURE TO CORRECT VIOLATION HAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU MILL BE CHARGED THE COST INCURRED FILE A 20% ADMINISTRATION FEE. THIS VIOLATION AY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE BOARD OF LICENSE AND INSPECTION REVIEW, NUMICIFAL SERVICES BUILDING. CONCURSE LEVEL, 1401 JOHN F. RENNEDY BLUDD., PHILA., PA 19102-11687 WITHIN 30 DAYS OF THIS NOTICE.

PHILADELPHIA, PA 19104-4543	BLVD., PHILA.,	PA 19102-1687 WITHIN 30	DAYS OF THIS NOTICE.		
Name of Violator	Job Name	CONTROL OF THE PROPERTY OF			
Hankin Management Company	Arsenal Business Center Building	Arsenal Business Center Building 51/52			
Address of Violator	Job Location	Job Location			
P.O. Box 26767	2275 Bridge St.		3/29/11		
City, State, Zip	Person Contacted & Title		Project Number		
Elkins Park, PA 19027	Mark Hankin				
Building Owner Demo Contractor Abateme	nt Contractor API Other	Substantive 🛛 N	Ion Substantive		
VIOLATION(S) PURSUANT TO TITLE 6, HEAL	TH CODE, OF THE PHILADELPHIA	CODE, SPECIFICA	LLY CHAPTER 6-600		
	TION VI. MAJOR PROJECTS (CONT.)		R PROJECTS (CONT.)		
l	a, negative pressure on 24 hours	e.(.25) bag used or			
	b. fallure to maintain neg. pressure diff., 0.02"		POSAL PROCEDURES		
	e. fallure to stop abatement upon neg. air loss	1 MACO 11 N MACON 1990	ighly wet ACM for disposal and		
	inlets (2) decon seal (3) air monitoring	place in 6 mil bags			
	, failure to maintain negative air system in		contaminated materials or		
	ordance with EPA560/5-85-024, Appendix J	clothing in 6 mil ba			
	ilure to meet requirements while exhausting	The state of the s	ouble bag, and transport to		
SECTION VI. MAJOR PROJECT STANDARDS no	gative air indoors	approved landfill			
A. fallure to obtain project inspector VI.	C.1. ASBESTOS PROJECT PROCEDURES	d. failure to place	sharp objects in fiber drum		
	allure to don proper personal equipment before	No. 10000 to 61000 \$1000 to	A CLEANUP PROCEDURES		
	ering		ipe/HEPA vacuum plastic		
	illure to provide sufficient equipment and		ritical barriers in place until		
	hing		levels meet re-occupancy		
	.) failure to maintain entry and exit log		in VI D.5 of the ACR		
[.) failure of all individuals, before entering the	VI.D. AIR MONITO			
	k area, to be familiar with all posted regs,		required samples by API		
B	sonal protection requirements		dependent certified lab or to		
		have results readil	1251		
	.) failure to don proper equipment & clothing				
	.2. GENERAL REMOVAL PROCEDURES		lowing air sampling regulations:		
	illure to properly wet w/amended water		of pre-test samples		
	nilure to lower material to floor (>15 ft.)		amples/routine conditions		
	illure to sponge or wipe surfaces clean	4.a., 2.d. project sa			
	illure to decon, equipment before removal				
	llure to retrieve waste water				
	.3. CONTAINMENT BAG TECHNIQUE		sample after visual		
	illure to properly use containment bag, single	Inspection			
	elbows and pipe only		sampling procedure		
	illure to have two persons per bag	VI.E. PROJECT COI			
) failure to remove occupants or have barrier	<u></u>	ubmit proof of final project cost		
) failure to have single layer plastic all openings		t final visual inspection		
) failure to have single layer plastic on floor (5')		report within 10 days		
	i) failure to smoke test bags	SECTION X INSPEC			
	3) failure to lift off ACM while wet	L	estos investigator on job site		
	6) failure to collapse bag w/HEPA vacuum	PA ACT 1990 - 194			
	0) failure to 6 mil bag over containment bag	Asbestos worker/s	upervisor certification		
	1) failure to clean all work surfaces	Comp.			
	(4) failure to dispose in accordance w/Vi.C.7	PHILA. HEALTH CO	DE 6-604-9(a)		
Other Violations and/ or Instructions:					
Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 51/52 in violation of Philadelphia Code					
§ 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable					
times and the owner or person in charge shall give the t	epartment free and unhindered access	for the purposes of s	uch inspection.		
Inspector Name (Print):	Inspector Signature:		7		
Andrew lones		See S	Lorine?		

NOTICE OF VIOLATION - MAJOR

PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH

AIR MANAGEMENT SERVICES

ASBESTOS CONTROL UNIT

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED EXCLOP. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION, COMPLETE THE ITEMS LISTED ON THE REVERUE SIDE AND RETURN THE NOTICE MITHIN 5 DAYS TO THE ADJOINING ADDRESS. PAILURE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION TOU MILL BE CHARGED THE COST INCURRED PLUS A 20% ACMINISTRATION PEETING VIOLATION MAY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION

SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2 ^{NO} FLOOR PHILADELPHIA, PA 19104-4543				OF THIS NOTICE, APPLY TO THE BOARD OF LICENSE AND INSPECTION REVIEW, NUNCIFAL SERVICES BUILDING, CONCOURSE EVEL, 1601 JOHN F. KENNEDY BLVD., PHILA., PA 19102-1657 WITTIN 30 DAYS OF THIS NOTICE.			
Name of Violator	Job Name			VI-1007 HIHIM JO L	Date Issued		
New Huntingdon Construction Company, Inc.		Arsenal Business Center Building 51/52			2	3/29/11	
Address of Violator		Job Location				Date of Violation	
P.O. Box 11283		2275 Bridge St.				3/29/11	
City, State, Zip		Person Contacted 8	k Title			Project Number	
Elkins Park, PA 19027		John C. Swanson, Leasing/Sales Manager			er		
Building Owner Demo Contractor A	batement Co				ubstantive 🛛 N	on Substantive	
VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600							
SECTION II. LICENSES	SECTION	VI. MAJOR PROJECTS (CO	NT.)		SECTION VI. MAJO	R PROJECTS (CONT.)	
A. unlicensed asbestos contractor	20.a. neg	ative pressure on 24 hour:	*		e.(.25) bag used on	vertkal pipes	
B.3.b. unficensed asbestos workers	20.b. fallu	ire to maintain neg. pressi	ure diff., 0.02"		VI.C.7. WASTE DIS	POSAL PROCEDURES	
SECTION III. PERMITS & NOTIFICATIONS	20.e. fallu	re to stop abatement upo	n neg. air loss		a. failure to thorou	ghly wet ACM for disposal and	
A.1. failure to obtain permit	[(1) inlets	(2) decon seal () (3)	air monitoring		place in 6 mil bags		
A.2.a. failure to provide required information	20.j. failu	re to maintain negative air	system in		b. failure to place o	ontaminated materials or	
SECTION IV. CERTIFICATION		ce with EPA560/5-85-024,		ь.	clothing in 6 mil ba	- 1 Annual Control	
C.1. failure to provide valid API certification		o meet requirements whi	e exnausting	Ш	nears are an area	ouble bag, and transport to	
SECTION VI. MAJOR PROJECT STANDARDS		air indoors	vinee.		approved landfill	hara aklasta ta fibas duum	
A. failure to obtain project inspector	(5) (5) (5)	BESTOS PROJECT PROCES		Ш		harp objects in fiber drum A CLEANUP PROCEDURES	
A.1. failure of API to notify department		to don proper personal ed	Inibusur perore	 1		• 0.000	
VI.B. WORK AREA PREPARATION 2. failure to post occupant notification		entering				ne/HEPA vacuum plastic ritical barriers in place until	
	_	c. failure to provide sufficient equipment and				evels meet re-occupancy	
3. failure to post caution signs (OSHA) 4. failure to construct isolation barrier		clothing			standard set forth	1 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	
5. Isolation barrier requirements not met:		d.(3.) failure to maintain entry and exit log			VI.D. AIR MONITO		
		d.(4.) failure of all individuals, before entering the work area, to be familiar with all posted regs,				required samples by API	
a. Iraming b. plywood c. plastic 7.a. failure to pre-clean, remove movable objects		protection requirements	steu regs,	H		ependent certified lab or to	
7.b. failure to pre-clean, seal fixed objects		d.(5.) failure to don proper equipment & clothing VI.C.2. GENERAL REMOVAL PROCEDURES a. failure to properly wet w/amended water b. failure to lower material to floor (>15 ft.) d. failure to sponge or wipe surfaces clean			have results readily	William And the Control of the Control	
7.c. failure to pre-clean, seal all other surfaces	-					owing air sampling regulations:	
8. plastic isolation (critical barriers)					4.a., 2.b. number o	The second secon	
11. fallure to maintain emergency exits					•	imples/routine conditions	
12. fallure to lock entrances (except emergency)					4.a., 2.d. project sa		
13. failure to seal floor drains (2 layers)		e. failure to decon, equipment before removal			2 3 An 1/2 4	mples/24 hours posted	
14. failure to shut down elevators	<u> </u>	f. failure to retrieve waste water VI.C.3. CONTAINMENT BAG TECHNIQUE		Ħ	4.b., 2.f. response		
15. failure to turn off HVAC systems	VI.C.3. CC				4.c., 2.b. clearance	sample after visual	
16. (ailure to meet electrical requirements (GFI)	a. failure	to properly use containme	ent bag, single		Inspection		
18. failure to overlap plastic 12" floor, walls	use elbov	rs and pipe only			4.c., 2.d. clearance	sampling procedure	
19.a. failure to provide 3 stage worker decon unit	b. fallure	to have two persons per b	ag		VI.E. PROJECT CON	APLETION	
19.b. failure to line unit 2 layers plastic	c.(.3) fallu	re to remove occupants o	r have barrier		1.a.(.5)fallure to su	ibmit proof of final project cost	
19.c. failure to frame, sheath decon (public access)	C.(.4) failu	ire to have single layer pla	stic all openings		4. fallure to submit	final visual inspection	
19.e.(.7) failure to have lockable shuttered door	c.(.5) failu	ire to have single layer pla	stic on floor (5')		report and/or lab r	eport within 10 days	
19.e. worker clean room regulations not met:	e.(.6) failt	ire to smoke test bags			SECTION X INSPEC	TIONS & REPORTS	
	e.(.13) fai	lure to lift off ACM while t	wel		fallure to have asb	estos Investigator on job site	
19.f. worker shower room regulations not met:	e.(.16) fai	lure to collapse bag w/HE	PA vacuum		PA ACT 1990 - 194	/SECTION 9.(a)(2)	
(a) (2) (3) (4)	0.(.20) fai	lure to 6 mil bag over con	tainment bag		Asbestos worker/s	upervisor certification	
19.g. equipment room regulations not met:	e.(.21) fai	lure to clean all work surf	aces		n pr		
(.1) (.2) (.3) (.4) (.8) (.1)	e.(.24) fai	lure to dispose in accorda	nce w/VI.C.7		PHILA. HEALTH CO	DE 6-604-9(a)	
Other Violations and/ or instructions:							
Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 51/52 in violation of Philadelphia Code							
§ 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection.							
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Inspector Name (Print):		wshecto	ıı Sıgılatufei	THE THE PARTY OF T			
Andrew Jones				ومنصر	160		

EXHIBIT B



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(215) 575-3918 mwalker@braverlaw.com

April 19, 2011

Via E-mail and First Class Mail
Dennis Yuen, Esq.
Assistant City Solicitor
City of Philadelphia Law Dept.
One Parkway Bldg. 16th Floor
1515 Arch Street
Philadelphia, PA 19102

Dear Mr. Yuen:

This Firm is counsel to Arsenal Associates, L.P. ("Arsenal"), Hankin Management Company ("HMC"), Arsenal Condominium Association and New Huntingdon Construction Company (collectively referred to herein as the "Arsenal Parties"). I am writing in response to your letter dated April 14, 2011.

We take strong exception to these new tactics employed by the City of Philadelphia Air Management Services ("AMS") to suspend pending demolition permits under the pretext that my clients somehow have denied AMS inspectors access to the Arsenal Business Center. To be clear, the Arsenal Parties categorically deny that they have denied access to AMS inspectors and strict proof is demanded thereof. To the contrary, my clients consistently have cooperated with AMS during inspections (more than 100 inspections so far) and have gone out of their way, frequently interrupting their normal business operations, to make themselves available to accompany AMS inspectors at the Arsenal. They have done so notwithstanding AMS' frequent ambush inspections prior and subsequent to our agreement that AMS provide, at a minimum, reasonable notice of its proposed inspections.

AMS claims that access to buildings 51, 52, 143 and 202 have been denied. Yet, AMS' naked accusations do not make this statement true. By way of example, AMS was never denied access to Building 202. When AMS inspectors sought to inspect the basement of Building 202, Mr. Swanson informed them that the basement was not on the agenda and that AMS should follow the agreed upon protocol of notifying counsel in advance of the inspection. This protocol—as you may recall—was agreed upon between my clients and AMS until AMS suddenly decided that my clients did not deserve reasonable notice through counsel. Nevertheless, Mr. Swanson repeatedly made clear to the AMS inspector at the time of the inspection that he was not denying access to the building.

Even assuming *arguendo* that AMS was denied access to these four buildings, does this give AMS an unfettered right to withhold demolition permits on buildings for which access was not denied? As stated in Mr. Braverman's April 13, 2011 email to you, Building 44 is a prime example of AMS' pretextual reasons for withholding demolition permits at the Arsenal. As you are aware, a demolition permit application is pending for Building 44. Building 44 has been remediated and a final remediation report has been submitted to the City of Philadelphia Department of Licenses & Inspections ("L&I"). AMS' inspector was permitted full and unhindered access to Building 44 yet declined to inspect the building. Indeed, the AMS inspector in question even refused to accept another copy of the final report for Building 44 when Arsenal representatives offered it to him during his visit. Yet, AMS has continued to hold up the permit application for Building 44 because "access was denied in other buildings." See email from D. Braverman to D. Yuen dated April 13, 2011. This arbitrary and capricious response from AMS is clearly contrary to the intent of the Health Code and NESHAP. Where L&I has an Asbestos Inspection Report clearly showing no asbestos in Building 44, on what grounds does AMS withhold the processing of a demolition permit to which my clients are properly entitled? Your failure to even mention Building 44 in your April 14, 2011 letter response speaks volumes.

Further, we find outrageous your assertion that "no one from AMS has advised your clients or their contractors that they had to stop all demolition or other activity at the Arsenal site before the USEPA Order became effective." Since the issuance of the March 30, 2011 Administrative Compliance Order ("ACO"), Mr. Jeff Forrester and other AMS representatives have repeatedly wielded the ACO before our consultants and contractors as a pretext for refusing to process permit applications for the Project. We have been advised that Mr. Forrester sent notices to some of our consultants and contractors advising them that all work at the Arsenal must cease. Most recently, on the morning of Friday, April 15, 2011, in connection with Building 48C, Mr. Forrester informed Casey Duffy of Delaware Valley Remediation ("DVR"), one of my clients' asbestos removal contractors, that AMS will not be processing any of the permit applications or NESHAP Notifications at the Arsenal. Therefore, Mr. Duffy was barred from submitting the notification that he intended to submit, on Arsenal's behalf, for an ACM issue he encountered during the demolition of Building 48C.

While AMS is vested with certain authority to access and inspect private property, at a minimum, my clients are still entitled to due process. Clearly, no federal, state or local laws permit AMS to engage in pretextual conduct or conduct that amounts to an abuse of power, bad faith or arbitrary and capricious action. Once again, we request that AMS approve (and do not restrict L&I from issuing) the demolition permit for Building 44.

Of course, my clients remain amenable to resolving these issues with AMS and will continue to cooperate with AMS with the goal of completing this beleaguered yet important Project. In short, please understand that Arsenal Associates is (and has been) ready, willing and able to provide reasonable and unhindered access to AMS.

Sincerely,

Michelle S. Walker

MMMMM

cc: Patrick O'Neill, Esq., Division Deputy City Solicitor, Environmental Law Donzetta Thomas, Senior Assistant Regional Counsel, EPA

Christine Convery,

David L. Braverman, Esquire